

**REMARKS****1. Formal Matters****a. Status of the Claims**

Claims 21 and 41-49 are pending in this application. Claims 41-43 and 45-49 are hereby canceled without prejudice to pursue the canceled subject matter in a continuing application; claims 21 and 44 are amended; and claims 50-53 are new. Applicant respectfully requests entry of the amendments and remarks made herein into the file history of the instant application. Upon entry of these amendments, claims 21, 44, and 50-53 will be pending and under active consideration.

**b. Amendments to the Claims**

Support for the claim amendments can be found in the application as originally filed as described in Table 1.

**Table 1**

<b>Claim</b>	<b>Support</b>
50	paragraph 0027
51	table 1, lines 13408-13412 and 13415-13419; claim 1; and paragraphs 26982 and 26993
52	as described for amended claim 51; and paragraph 0023
53	as described for amended claim 51; and paragraph 0027

**c. Objections to the Drawings/Specification**

On pages 2 and 3 of the Office Action, the Examiner objects to the Drawings because the specification allegedly indicates the disclosure of 3297 figures at paragraphs 0059 and 0060, but the application was filed with only 14 figures. The Examiner requires submission of corrected drawings. Applicant respectfully disagrees.

On January 10, 2005, Applicant submitted a Preliminary Amendment that amended the specification to delete paragraphs 0059 and 0060. For the Examiner's convenience, Applicant submits herewith the Preliminary Amendment as Exhibit A. It appears via the application's Image File Wrapper in Private PAIR that the amendment of the specification was entered, and therefore indication of the presence of the 3297 figures was removed. Accordingly, Applicant submits that no corrected Drawings should be required. In view of the foregoing, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the Drawings. Should the Examiner desire additional clarification regarding this issue, she is invited to contact the undersigned.

## **2. Patentability Remarks**

### **a. 35 U.S.C. § 112**

On pages 6 and 7 of the Office Action, the Examiner rejects claims 21 and 41-49 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner asserts that the specification does not appear to contemplate as part of the invention a genus of sequences having at least 62.5%, 70.8%, or 79.2% identity with a nucleic acid of 18-24 or 50-120 nucleotides in length comprising at least 18 nucleotides of SEQ ID NOs: 4641 or 4642.

Without prejudice to pursuing the canceled subject matter in a continuing application, claim 21 is amended to no longer recite a sequence at least 62.5% identical to a nucleic acid of 18-24 or 50-120 nucleotides in length comprising at least 18 nucleotides of SEQ ID NOs: 4641 or 4642. Moreover, claims 41-43 and 45-49 have been canceled, thereby rendering the Examiner's rejection of these claims moot. In view of the foregoing amendment and remarks, Applicant respectfully requests that the written description rejection of claims 21 and 44 under 35 U.S.C. § 112, first paragraph has been overcome and should be withdrawn.

### **b. Provisional Obviousness-Type Double Patenting**

On pages 3-5 of the Office Action, the Examiner provisionally rejects the instant claims on the ground of obviousness-type double patenting over various cited patent applications. Applicant respectfully requests that the Examiner hold the rejection in abeyance until there is allowable subject matter, at which time the rejection may be withdrawn from the instant application and applied to a later-filed patent application and/or Applicant will consider amending the claims in any earlier-filed applications or filing a terminal disclaimer.

### 3. Conclusion

Applicant respectfully submits that the instant application is in good and proper order for allowance and early notification to this effect is solicited. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the instant application, the Examiner is encouraged to call the undersigned at the number listed below.

Respectfully submitted,

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